

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5155 of 1998

with

CIVIL APPLICATION NO 9605 OF 1998

AND

CIVIL APPLICATION NO 7270 OF 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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BAMANIABHAI OKARABHAI VASAVA

Versus

STATE OF GUJARAT

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Appearance:

MR JOY MATHEW for Petitioner

MR KT DAVE AGP for Respondent No. 2, 3, 4

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 03/11/98

ORAL JUDGEMENT

Rule. Service of rule is waived by Mr.  
K.T.Dave, learned Assistant Government Pleader appearing

for the State and other authorities. This petition and the aforesaid civil applications were heard and were kept for orders today. Accordingly, it has been submitted by the learned advocate Mr. Joy Mathew appearing for the petitioner that the applicant-original petitioner was allotted 4 acres of the Government waste land located in-at survey no. 61 of Mojadi village by the Deputy Collector vide order dated 5th November, 1965. It has been submitted that at the time of such allotment, the concerned authority had charged price of the standing trees from the petitioner. It is finally submitted that the order dated 5th November, 1965 is still in existence.

2. As the standing trees are required to be cut, the petitioner made an application to the concerned revenue authority who after considering all the records including the opinion given by respondent No. 2 (Deputy Forest Officer), permitted the applicants to cut the trees. Accordingly, the petitioner had cut the trees and bamboos in the month of June, 1997. In order to carry the wood out of the cut-off trees and bamboos, the petitioner required transit permit from the Forest Department. Therefore, on 19th November, 1997, the petitioner made an application to respondent NO. 3 (Range Forest Officer) requesting for issuing transit permit. The respondent No. 3 issued necessary permit to carry out the wood and the petitioner could sell the same. The petitioner has filed the present petition only for the purpose of obtaining transit pass for carrying 3600 pieces of bamboos he has cut-off from the land in question. During the pendency of the main matter namely special civil application no. 5155 of 1998, respondent No. 2 issued noticed on or around 24th July, 1998 calling upon the petitioner to repay the amount of Rs. 3,51,441.45 ps. which, according to respondent No. 2, came to be received by the petitioner by way of sale of wood. The petitioner has disputed the quantum of the said amount of Rs.3,51,441.45 ps.

3. By way of civil application no. 7270 of 1998, the petitioner has challenged the aforesaid notice dated 24th July, 1998 issued by respondent No. 2 directing him to repay the amount stated to have been realized by the petitioner from the sale of the wood.

4. In the background of the aforesaid facts as submitted by Mr. Mathew, learned advocate appearing for the petitioner and having heard the learned Assistant Government Pleader Mr. Dave, it would be just and proper to issue the following directions :

The petitioner is set at liberty to make appropriate representation to respondent No. 2 requesting him to issue necessary transit permit within two weeks from today and if such representation is made by the petitioner, same shall be considered and decided by respondent No. 2 within two weeks thereafter by passing appropriate speaking order in accordance with law. As a necessary consequence and without going into the merits of the case, respondent No. 2 is directed not to implement the order dated 24th July, 1998 as aforesaid till the appropriate speaking order is passed on the representation made by the petitioner as aforesaid.

Subject to the aforesaid directions, rule is discharged with no order of cost. All the proceedings of the main petition as well as the civil applications as aforesaid are disposed of in view of the aforesaid directions.

3.11.1998. (M.S.Parikh,J.)

Vyas